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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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WORKMAN NYDEGGER/MICROSOFT 1000 EAGLE GATE TOWER 60 EAST SOUTH TEMPLE SALT LAKE CITY, UT 84111			RUTTEN, JAMES D	
			ART UNIT	PAPER NUMBER
			2122	

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/005,959	Applicant(s) PEEV ET AL.	
	Examiner J. Derek Rutten	Art Unit 2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2001.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
 4a) Of the above claim(s) 30-53 and 58 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-29 and 54-57 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 05 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/13/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-29 and 54-57, drawn to transacted installation using a rollback document, classified in class 717, subclass 176.
 - II. Claims 30-53, 54-57, and 58, drawn to conditional installation using security features, classified in class 717, subclass 176.
2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as providing ongoing system backup rollback documents for recovery from system malfunction, whereas invention II provides file system security to prohibit unauthorized access. See MPEP § 806.05(d).
3. The subject matter of group I with respect to group II has obtained a separate status in the art, even though they can be classified together. Evidence is found via U.S. Patent 4,665,520 to Strom et al. that teaches error recovery (classifiable in class 715 "Error Recovery") via rollbacks (e.g. column 1 lines 39-44), in contrast to U.S. Patent 5,113,518 to Durst, Jr. et al. which teaches security features (classifiable in class 713/200 "Security") via authorization (column 3 lines 35-44). Thus, while both group I and II claims can be classified under 717/174 "Software Installation", the particular features have obtained a separate status in the art and imposes a burden upon the examiner.

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4. During a telephone conversation with Jens Jenkins, Reg. No. 44,803, on January 3, 2005 a provisional election was made without traverse to prosecute the invention of group I, claims 1-29 and 54-57. Affirmation of this election must be made by applicant in replying to this Office action. Claims 30-53 and 58 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Claims 1-29 and 54-57 have been examined.

Drawings

6. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the access and decompression of compressed and uncompressed files (claims 7 and 8), XML structured instructions (claim 10), extraction instructions (claim 11), the pre-installation state (claim 20), and the backup up of the original file and configuration setting (claims 21 and 22), must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

8. Claim 23 is objected to because of the following informalities: The word "installation" appearing in paragraph 3 after the word "accessing" and before "computer-executable", appears to be a typo and should be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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10. Claims 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 17 recites the limitation "one other module" in line 3. There is insufficient antecedent basis for this limitation in the claim.

12. Claims 18 and 19 are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1-7, 11-29, and 64-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Gain Control of Application Setup and Maintenance with the New Windows Installer" by Kelly (hereinafter "Kelly"), in view of U.S. Patent 6,438,749 to Chamberlain (hereinafter "Chamberlain").

In regard to claim 1, Kelly discloses:

an act of the mobile computing device accessing at least a version of at least one file that is to be installed on the mobile computing device; See page 5:

The Windows installer is a registered server for files with a .MSI extension, so it is automatically invoked by the shell when a .MSI file is opened by a user. When invoked in this way, the installer

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reads product information from the installation database file and determines whether the product is already installed.

an act of the mobile computing device accessing computer-executable installation instructions that define how the at least one file is to be installed on the mobile computing device, the installation instructions being directly interpretable by a configuration manager associated with the mobile computing device; See page 5:

The installer also exposes an OLE Automation interface to allow administrators or developers to write Visual Basic or VBScript code that controls product installation.

Note that VBScript is an interpreted scripting language that is therefore interpreted by the installer.

an act of the configuration manager causing the installation instructions to be executed; See page 5:

If the product is not yet installed, it launches the product's installation sequence, which is described in the database.

and

an act of the configuration manager causing a rollback document to be constructed. See page 3:

All changes to the system configuration are done as a single installation transaction by the Install Service. The transaction provides for rollback of a failed or aborted installation. The rollback includes restoring the original contents of files replaced or deleted during the installation and restoring overwritten or deleted registry settings (such as COM class registration). Since this **rollback information** can take up a significant amount of space, an administrator or user can disable it during installation.

Kelly does not expressly disclose a mobile computing device. However, in an analogous environment, Chamberlain teaches installing components on a mobile computing device. See column 4 lines 24-29:

Moreover, those skilled in the art will appreciate that the invention may be practiced with other computer system configurations, including **hand-held** devices, multiprocessor systems, microprocessor-based or programmable consumer electronics, minicomputers, mainframe computers, and the like.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Chamberlain's teaching of a mobile computing device with Kelly's teaching of the "Windows Installer". One of ordinary skill would have been motivated to install software on a mobile computer in order to utilize the computer's processing power.

In regard to claim 2, the above rejection of claim 1 is incorporated. Kelly further discloses: *an act of the mobile computer device determining whether or not the installation instructions would be successful*. See page 3: "The transaction provides for rollback of a failed or **aborted** installation."

In regard to claim 3, the above rejection of claim 2 is incorporated. Kelly further discloses: *an act of querying a plurality of configuration service providers that would each perform some of the installation instructions as to whether or not the installation would be successful with respect to their corresponding installation instructions*. See Figure 1: Install Transaction, and Install Service.

In regard to claim 4, the above rejection of claim 3 is incorporated. Kelly further discloses that the installation of software can be accomplished using a plurality of installation modules as cited in the above rejection of claim 3. Kelly does not expressly disclose transactions. However, Chamberlain teaches using rollbacks in the context of transactions in column 13 lines 21-29.

In regard to claim 5, the above rejection of claim 2 is incorporated. All further limitations have been addressed in the above rejection of claim 2.

In regard to claim 6, the above rejection of claim 2 is incorporated. All further limitations have been addressed in the above rejection of claim 4.

In regard to claim 7, the above rejection of claim 1 is incorporated. Kelly further discloses: *an act of the mobile computing device accessing a compressed version of the at least one file that is to be installed on the mobile computing device; and an act of the mobile computing device decompressing the compressed version of the at least one file that is to be installed on the mobile computing device.* See 4th paragraph on page 5: “compressed CAB files”. Decompression is an inherent component of installing a compressed file, otherwise the file would be unusable.

In regard to claim 11, the above rejection of claim 1 is incorporated. Kelly discloses installation of a system using compressed CAB files as disclosed in the above

rejection of claim 7. This process inherently requires extraction, since files could not be installed without first being extracted from the CAB file.

In regard to claim 12, the above rejection of claim 1 is incorporated. Kelly further discloses examination of files including indications of replacement and deletion (See 3rd paragraph on page 3), and further generally describes installation including moving files (See 2nd paragraph page 13).

In regard to claim 13, the above rejection of claim 1 is incorporated. All further limitations have been addressed in the above rejection of claim 12.

In regard to claim 14, the above rejection of claim 1 is incorporated. Kelly further discloses removing features and uninstalling applications, which all involve deleting files. See 5th paragraph on page 5.

In regard to claim 15, the above rejection of claim 1 is incorporated. Kelly further discloses restoring registry settings (3rd paragraph on page 3).

In regard to claim 16, the above rejection of claim 1 is incorporated. Kelly further discloses execution of instructions by the Windows installer service. See top of page 3.

In regard to claim 17, the above rejection of claim 1 is incorporated. Kelly further discloses an API which comprises numerous modules for execution of installation services and instructions. See pages 9-12.

In regard to claim 18, the above rejection of claim 17 is incorporated. Kelly further discloses use of the Windows 95, Windows 98, and Windows NT, all of which provide file configuration services.

In regard to claim 19, the above rejection of claim 17 is incorporated. Kelly further discloses use of the Windows 95, Windows 98, and Windows NT, all of which inherently registry configuration services.

In regard to claims 20-22, the above rejection of claim 1 is incorporated. Kelly further discloses pre-installation state, file backup, and configuration setting backup, all in the context of a rollback document. See 3rd paragraph page 3.

In regard to claim 23, Kelly discloses a computer program product. See last paragraph on page 2: "The new Windows installer". All further limitations have been addressed in the above rejection of claims 1 and 2.

In regard to claim 24, the above rejection of claim 23 is incorporated. Kelly does not expressly disclose physical storage media. However, Chamberlain teaches physical storage media in column 4 line 48.

In regard to claim 25, the above rejection of claim 23 is incorporated. All further limitations have been addressed in the above rejection of claim 1.

In regard to claim 26, the above rejection of claim 23 is incorporated. All further limitations have been addressed in the above rejection of claim 5.

In regard to claim 27, the above rejection of claim 23 is incorporated. All further limitations have been addressed in the above rejection of claim 6.

In regard to claim 28, Kelly discloses: *a step for installing the at least one file in a transacted manner using the configuration manager*. See page 3:

All changes to the system configuration are done as a single installation transaction by the Install Service. The transaction provides for rollback of a failed or aborted installation.

All further limitations have been addressed in the above rejection of claim 1.

In regard to claim 29, the above rejection of claim 28 is incorporated. All further limitations have been addressed in the above rejections of claims 1, 2, and 5.

In regard to claim 54, Kelly discloses:

a field representing at least a version of at least one file to be installed. See 5th paragraph on page 5:

Features and components for a product are described in the product's installation database. This is a file with a .MSI extension that contains all the installation information for a particular product, including the user interface displayed during the initial user installation of the product.

All further limitations have been addressed in the above rejection of claims 1 and 24.

In regard to claim 55-57, the above rejection of claim 54 is incorporated. All further limitations have been addressed in the above rejection of claims 7, 10, and 24, respectively.

15. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly and Chamberlain as applied to claim 1 above, and further in view of U.S. Patent 6,360,364 to Chen et al. (hereinafter "Chen").

In regard to claim 8, the above rejection of claim 1 is incorporated. Kelly does not expressly disclose access of an uncompressed file. However, Chen teaches the use of an uncompressed CAB file in column 8 lines 59-65. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Chen's teaching of uncompressed CAB files with Kelly's installer. One of ordinary skill would have been motivated to use uncompressed files in order to reduce the amount of processing required during installation.

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16. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly and Chamberlain as applied to claim 1 above, and further in view of U.S. Patent 6,687,873 to Ballantyne et al. (hereinafter "Ballantyne").

In regard to claim 9, the above rejection of claim 1 is incorporated. Kelly does not expressly disclose: *instructions that are structured in accordance with a schema that is interpretable by the configuration manager*. However, in an analogous environment, Ballantyne teaches that an XML schema can be used to define instructions. See Column 7 lines 42-46. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Ballantyne's teaching of schema's with Kelly's installation service. One of ordinary skill would have been motivated to define data elements associated with installation instructions.

In regard to claim 10, the above rejection of claim 1 is incorporated. All further limitations have been addressed in the above rejection of claim 9.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Derek Rutten whose telephone number is (571) 272-3703. The examiner can normally be reached on M, T, Th, F 6:00 - 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jdr



TUAN DAM
SUPERVISORY PATENT EXAMINER